

**Planning Commission
Staff Report
March 21, 2019**



Case No:	18ZONE1081
Project Name:	2944 Breckenridge Lane
Location:	2944 Breckenridge Lane
Owner(s):	Advanced ENT Holdings of St. Matthews, LLC
Applicant:	J&J Holdings, LLC
Representative(s):	Frost Brown Todd, LLC
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from OR-3, Office-Residential to C-1, Commercial
- **Waiver** of Land Development Code, section 10.2.4 to reduce landscape buffer along northwest property line and omit the landscape buffer abutting the C-1 site to the south and west
- **Revised Detailed District Development Plan**

CASE SUMMARY

A C-1, commercial district is proposed for a veterinary hospital. The site was recently rezoned under docket 17ZONE1054 from R-2/R-5 to OR-3 for medical offices. Only a portion of the site previously rezoned is proposed for commercial activities. The layout remains relatively the same as previously approved.

STAFF FINDING

The proposal conforms to the Land Use and Development Policies of Plan 2040. The proposal is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The scale is appropriate for the area as the center contains a mixture of building sizes, heights, and setbacks. Additional services are being made available to surrounding populations.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies
Cornerstone 2020: **OR**
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The proposal is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The scale is appropriate for the area as the center contains a mixture of scales supporting large and small retail uses; grocery; professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services. The area has sufficient permanent population and population in transit to support the use. Residential neighborhoods surround the existing activity center. The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as an additional neighborhood service is being introduced and is well-connected with the development under construction.

Access is provided from an arterial roadway intersecting an interstate and an activity center. The proposal provides for easy access to public transit and public ways. It will contribute its proportional share of the cost of roadway improvements and other services and public facilities as public walks and TARC amenities are provided.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as landscape screening and planting material is being provided as required to adjacent to residential uses and the internal buffer to be omitted is within a shared use parking area.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific policies of Plan 2040 as landscape screening and planting material is being provided as required to adjacent to residential uses and the internal buffer to be omitted is within a shared use parking area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as screening and buffering are provided and the omission of the buffer in total is within an internal shared parking lot.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the site remains relatively similar to the previous proposal with the exception of the zone change triggering the internal buffer. The internal buffer is not necessary with the shared parking areas.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There are no features of historic significance on the property and no apparent natural resources.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as sidewalks, pedestrian connection, TARC improvements, and vehicular connectivity will be provided.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space is not a required as a component of this development.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. The proposed building materials increase the new development's compatibility as they are consistent with design styles within the center. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The setback remains substantially similar to that approved under docket 17ZONE1054. Landscape areas appear to be provided as necessary with only minor encroachments and relief requested between similar users in parking areas

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in Plan 2040 Staff Analysis for the change in zoning request and to requirements of the Land Development Code.

REQUIRED ACTION(S)

- **RECOMMEND** to the Louisville Metro Council that the Change-in-Zoning from OR-3, Office-Residential to C-1, Commercial I on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Waiver** of Land Development Code, section 10.2.4 top reduce landscape buffer along northwest property line and omit the landscape buffer abutting the C-1 site to the south and west
- **APPROVE or DENY** the **Revised Detailed District Development Plan** subject to the abandonment of the exiting binding elements and adoption of the proposed binding elements

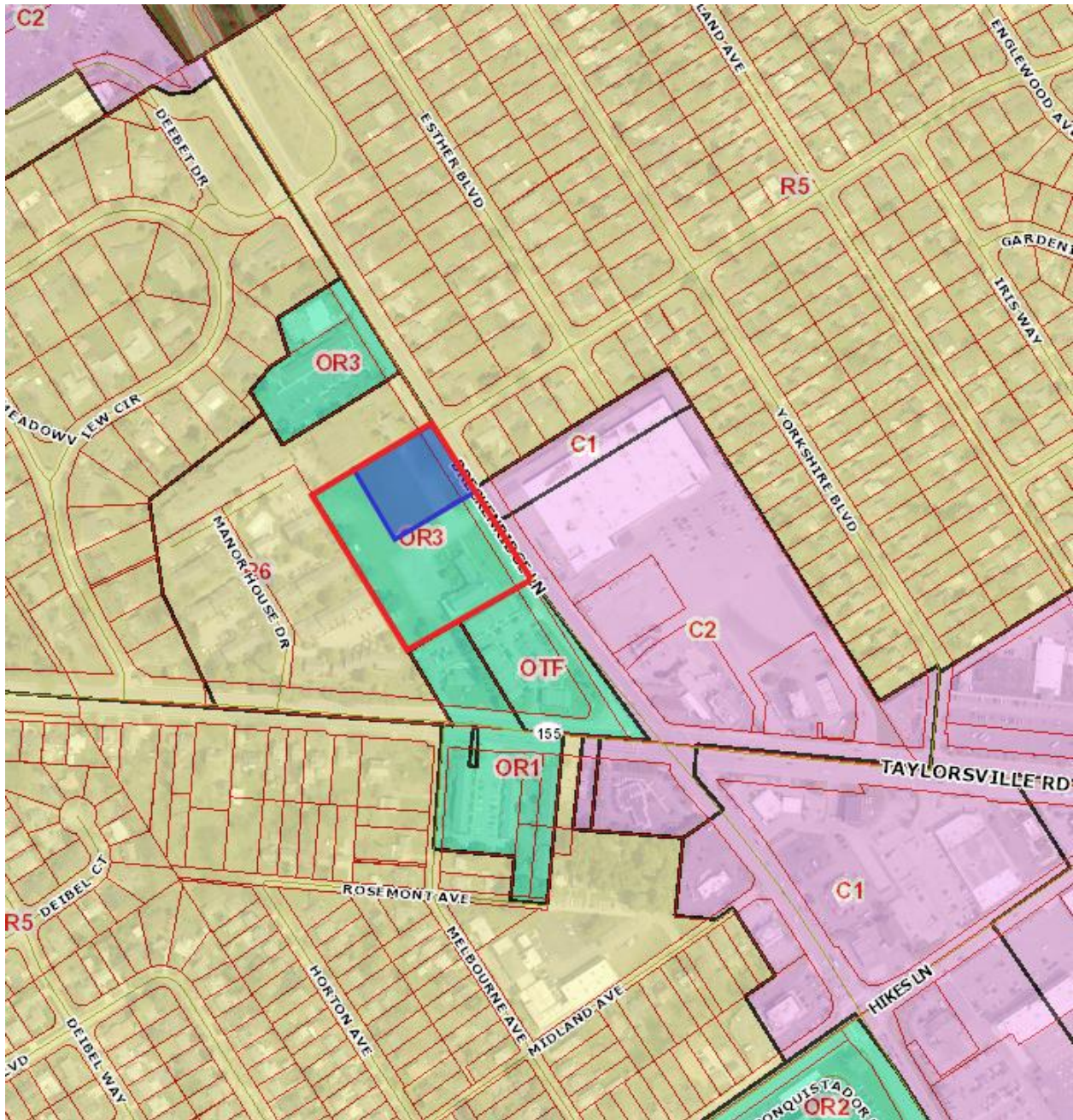
NOTIFICATION

Date	Purpose of Notice	Recipients
2/14/19	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 26
3/4/19	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 26
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Plan 2040 Staff Checklist
- 4. Existing Binding Elements
- 5. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Plan 2040 Staff Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Neighborhood: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Community Form	<p>6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.</p>	✓	The proposal does not constitute a non-residential expansion into an existing residential area as the area is already zoned for non-residential uses.
Land Use & Development Goal 1: Community Form	<p>7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.</p>	✓	The proposal is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The scale is appropriate for the area as the center contains a mixture of scales supporting large and small retail uses; grocery; professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services
Land Use & Development Goal 1: Community Form	<p>17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	✓	The proposal would not appear to have any adverse impacts on traffic as it is located on an arterial roadway.
Land Use & Development Goal 1: Community Form	<p>18. Mitigate adverse impacts of noise from proposed development on existing communities.</p>	✓	The proposal would not appear to have any adverse impacts from noise

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Form	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposal is located within an activity center and is compatible with surrounding land uses. The proposed building materials increase the new development's compatibility as they are consistent with design styles within the center
Land Use & Development Goal 2: Community Form	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposal is located with appropriate access and connectivity as the parking serves multiple uses and the access points were previously approved.
Land Use & Development Goal 2: Community Form	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The area has sufficient permanent population and population in transit to support the use. Residential neighborhoods surround the existing activity center.
Land Use & Development Goal 2: Community Form	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The land uses are relatively compact and utilize the majority of the land for parking, structures, and detention, while maintaining appropriate landscape buffers.
Land Use & Development Goal 2: Community Form	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as an additional neighborhood service is being introduced and is well-connected with the development under construction
Land Use & Development Goal 2: Community Form	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed district allows a wide variety of uses.
Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal will provide for new commercial services in the area.
Land Use & Development Goal 2: Community Form	10. Encourage outlet development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The proposal is located in an outlet of a parking lot and shares access and parking.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Form	11. Ensure appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences.	✓	Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The setback remains substantially similar to that approved under docket 17ZONE1054.
Land Use & Development Goal 3: Community Form	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The site does not appear to contain significant natural features. Tree canopy will be provided as required.
Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The site does not appear to contain wetlands, floodplain or other hydric features.
Land Use & Development Goal 3: Community Form	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The subject site does not appear to be located in a flood prone area. MSD has approved the preliminary development plan.
Land Use & Development Goal 4: Community Form	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The site does not contain any significant features of architectural value.
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not contain any significant features of cultural value.
Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposal is located within an activity center.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access is provided from an arterial roadway intersecting an interstate and an activity center.
Land Use & Development Goal 3: Mobility	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The subject site is in the NFD, while the adjacent center is in the RCFD. The proposed use provides a neighborhood service.
Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The center contains a mixture of scales supporting large and small retail uses; grocery; professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services
Land Use & Development Goal 3: Mobility	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposal provides for easy access to public transit and public ways.
Land Use & Development Goal 3: Mobility	4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	The proposal provides for easy access to public transit and public ways.
Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The proposal provides for easy access to public transit and public ways.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities as public walks and TARC amenities are provided.
Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities as public walks and TARC amenities are provided.
Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities as public walks and TARC amenities are provided.
Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Existing utilities would appear to be available
Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.
Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.
Land Use & Development Goal 1: Economic Development	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The subject site is located on an arterial roadway.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	No karst features were evident during the site inspection by the applicant.
Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The proposal's drainage plans have been approved by MSD,

4. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan/alternative landscape plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission’s designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3’ of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for all work within the right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit.

Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- d. A minor plat shall be recorded creating the lots as shown on the development plan.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 8. Office hours for patient visits shall be limited to 6:00 a.m. to 10:00 p.m.
 9. Landscaping and screening shall be provided on the subject site adjacent to the Royal Oaks Condominium property as required by Chapter 10 of the Land Development Code. A 6 ft tall privacy fence and the required quantity of trees required by Chapter 10 shall be installed on the subject site in the rear property line Landscape Buffer Area.
 10. Outdoor lighting shall be directed down and away from residential areas. Lighting fixtures shall have a 90-degree cut-off.
 11. Elevations for Tract 1 shall be submitted to Planning and Design staff for review and approval prior to issuance of building permits for Tract 1.

4. Proposed Binding Elements – 18ZONE1091 only

1. The development shall be in accordance with the approved district development plan/alternative landscape plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath

the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for all work within the right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. Operating hours shall be from ___ a.m. to ____ p.m.
9. Landscaping and screening shall be provided on the subject site adjacent to the Royal Oaks Condominium property as required by Chapter 10 of the Land Development Code. A 6 ft tall privacy fence and the required quantity of trees required by Chapter 10 shall be installed on the subject site in the rear property line Landscape Buffer Area.
10. Outdoor lighting shall be directed down and away from residential areas. Lighting fixtures shall have a 90-degree cut-off.